

# Exhibit 382

*United States of America ex rel. Ven-A-Care of the Florida Keys, Inc., et al.*  
*v. Dey, Inc., et al.*, Civil Action No. 05-11084-PBS

**Exhibit to the August 28, 2009 Declaration of Sarah L. Reid in Support  
of Dey's Opposition to Plaintiffs' Motion for Partial Summary Judgment**

IN THE CIRCUIT COURT OF THE  
SECOND JUDICIAL CIRCUIT,  
IN AND FOR LEON COUNTY, FLORIDA  
CASE NO. 98-3032A

THE STATE OF FLORIDA, ex rel,

VEN-A-CARE OF THE FLORIDA  
KEYS, INC., a Florida  
corporation, by and through  
its principal officers and  
directors, ZACHARY T. BENTLEY  
and T. MARK JONES,

Plaintiffs,

vs.

BOEHRINGER INGELHEIM  
CORPORATION; DEY, INC.; DEY,  
L.P.; EMD PHARMACEUTICALS,  
INC.; LIPHA, S.A. MERCK, KGaA;  
MERCK-LIPHA, S.A.; SCHERING  
CORPORATION; SCHERING-PLOUGH  
CORPORATION; ROXANE  
LABORATORIES, INC., and  
WARRICK PHARMACEUTICALS  
CORPORATION,

Defendants.

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CONTINUED VIDEOTAPED  
DEPOSITION OF:

JERRY WELLS

TAKEN AT INSTANCE OF:

The Defendants

DATE:

May 25, 2004 <sup>5</sup>

TIME:

Recommenced at 9:04 a.m.  
Adjourned at 4:00 p.m.

LOCATION:

215 S. Monroe Street  
Tallahassee, Florida

REPORTED BY:

SANDRA L. NARGIZ  
Certified Realtime Reporter

ACCURATE STENOGRAPHY REPORTERS, INC.  
2894 REMINGTON GREEN LANE  
TALLAHASSEE, FL 32308 (850)878-2221

1 about?

2 **A** I think that was --

3 MR. AZORSKY: Objection to the form.

4 MS. MILLER: Object to the form.

5 THE WITNESS: -- as a result of State of New  
6 York's OIG and we did globally adopt those prices  
7 as requested by the OIG, yes.

8 BY MR. McDONALD:

9 **Q** And you adopted them as state MACs?

10 **A** Yeah, we adopted them as state MACs.

11 **Q** I want to look at your affidavit again,  
12 Exhibit 59 for a moment. I want to focus on paragraph 7  
13 on page 2. The second sentence of paragraph 7 states:  
14 "From July 1, 1994, through and including June 30, 2000,  
15 EAC was the lower of wholesale acquisition costs plus 7  
16 percent, the federal upper limit or the state maximum  
17 allowable costs; is that correct?

18 **A** Correct.

19 **Q** Is that true?

20 **A** WAC plus 7 percent, federal upper limit, state  
21 MAC.

22 **Q** There was no AWP component?

23 **A** We did not use an AWP component from 1994.  
24 There was an AWP component added at some point, but I  
25 don't recall when it got added. It did not affect most